

Application No.: 10/666,946
Response to Restriction Requirement Dated 20 July 2006
Reply to Office Action of 20 January 2006

of an organ in a subject. Thus, for example, Applicants submit that Groups I-III should be combined for examination. Similarly, Groups IV-VI, etc. should be combined for examination.

Furthermore, there are two criteria for a proper requirement for restriction between patentably distinct inventions: 1) The inventions must be independent or distinct as claimed; and 2) There must be a serious burden on the Examiner if restriction is not required. See MPEP § 803. Examiners must provide reasons and/or examples to support conclusions. For purposes of the initial requirement, a serious burden on the Examiner may be *prima facie* shown if the Examiner shows by appropriate explanation either separate classification, separate status in the art, or a different field of search as defined in MPEP § 808.02. That *prima facie* showing may be rebutted by appropriate showings or evidence by the applicant. Insofar as the criteria for restriction practice relating to Markush-type claims is concerned, the criteria are set forth in MPEP § 803.02. See MPEP § 803. If the members of the Markush group are sufficiently few in number or so closely related that a search and examination of the entire claim can be made without serious burden, the Examiner must examine all claims on the merits, even though they are directed to independent and distinct inventions. In such a case, the Examiner will not require restriction. See MPEP § 803.02.

Even if the methods of Groups I-III may be distinct, which Applicants do not concede, this fact is not sufficient for requiring restriction. As stated in the MPEP, as discussed above, distinctness alone is not enough to require a restriction. There must also be a serious burden upon the Examiner. In the absence of such a burden, the Examiner must examine all of the claims of the related Groups, e.g., Groups I-III. It is urged that the burden of examining Groups I-III of the present application is not a serious one. Specifically, Applicants note that with respect to the initial requirement discussed above, the field of search for each of Groups I-III is identical, i.e., class 514, subclass 2. Thus, this fact does not establish distinctness, and in fact points out that there is no undue burden in examining the methods of Groups I-III together because the field of search is identical. Thus, Applicants submit that the Examiner has not established that it would be an undue burden to search the inventions of Groups I-III.

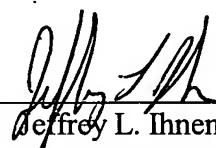
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In view of the above arguments, it is requested that the restriction requirement imposed in the Office Action mailed 20 January 2006 be reconsidered and that the separate groups directed to "arresting," "protecting" and "preserving" be combined for examination. Thus, for example, Applicants submit that Groups I, II and III should be combined for examination, and Applicants would then elect the newly combined group for examination.

Respectfully submitted,

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